IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

WP(C).No. 31328 of 2007(D)

PETITIONER:

D.NESAMANI,
PANANGALA PUTHUVAL PUTHEN VEEDU,
KULATHUR, UCHAKADA P.O.,
NEYYATTINKARA, THIRUVANANTHAPURAM.

BY ADV. SRI.B.KRISHNA MANI

RESPONDENTS:

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1. **THE KERALA KHADI & VILLAGE INDUSTRIES BOARD, REPRESENTED BY ITS SECRETARY, THIRUVANANTHAPURAM.**

2. **THE TAHSILDAR(RR), REVENUE RECOVERY, NEYYATTINKARA.**

BY ADV. SRI. K.P. HARISH, SC for R1
BY GOVERNMENT PLEADER SRI. MATHEW VADAKKEL for R2

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI,J.

W.P (C) No. 31328 of 2007

Dated this the 7th November, 2007

J U D G M E N T

Petitioner availed a loan of Rs.3,60,000/- from the Kerala Khadi and Village Industries Board-the 1st respondent in 1999. An extent of 20.20 ares of property in Resurvey No.134/21/1 of Kulathoor Village was given as security at that point of time. Petitioner defaulted repayment of the same. Revenue Recovery proceedings has been taken against the petitioner. Exhibit-P3 shows that apart from the extent of 20.20 ares of land mentioned above, further extent of 40.60 ares which includes 20.40 ares is also sought to be proceeded against Exhibit-P4 is the notice under Section 49 of the Revenue Recovery Act proposing a sale of the property. Petitioner challenges Exhibit-P4 in this writ petition.

2. Learned Standing Counsel for the 1st respondent Board submits that the Tahasildar has reported that the sale of the mortgaged property alone would not be sufficient to satisfy the amount sought to be recovered by the Board and it is therefore the other property belonging to the petitioner is also proceeded against.

3. I heard the standing counsel for the 1st respondent and the learned Government Pleader appearing on behalf of the Recovery Officer.

4. Learned counsel for the petitioner Sri. B.Krishna Mani submits that Tahsildar should consider whether sale of the entire extent of mortgaged property is necessary to satisfy the requisition made by the 1st respondent.

In the circumstances, this writ petition is disposed of in the following terms.

i) Petitioner shall file a representation before the 2nd respondent indicating the value of the mortgaged property and also indicating the extent of land, which would be required to be sold to satisfy the requisition made by the 1st respondent, within a period of one month from today;

ii) If such a representation is filed, the 2nd respondent shall, after conducting such reasonable enquiries as are deemed appropriate, proceed with the sale of requisite extent of land out of the mortgaged property in the 1st instance. I make it clear that

Tahsildar is of the opinion that it is necessary to bring the entire mortgaged property to sale as a whole there is nothing which prevents him from adopting such a course of action.

iii) After sale of the mortgaged property either in whole or in part if there is any further amount due from the petitioner then the 2nd respondent shall notify the sale of the other property, which is mentioned in Exhibit-P3 and take appropriate proceedings under the provisions of the Act.

iii) Further proceedings pursuant to Exhibit-P4 shall be kept in abeyance till the process as mentioned above is completed, provided the petitioner pays an amount of Rs.1.25 lakhs, within a period of one month from the date of receipt of a copy of this judgment.

(V.GIRI, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007